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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 PRINCE KENNEDY,

11 Petitioner,

12 v.

13 PAT GLEBE.

14 Respondent.

CASE NO. C11-5496-BHS-JRC

REPORT AND
RECOMMENDATION

NOTED FOR: November 18, 2011

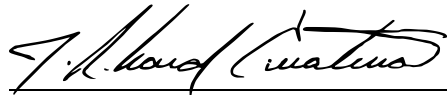
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16 This petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 has
17 been referred to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C.
18 § 636(b) (1) (A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner
19 has filed a motion for voluntary dismissal after the respondent has answered the petition
20 and shown that the petition is second or successive.

21 Pursuant to Fed. R. Civ. P. 41 (2) the Court recommends the petition be dismissed
22 without prejudice. Prior to filing a second or successive petition, Mr. Kennedy needs
23 leave from the Ninth Circuit. See Ninth Circuit Rule 22-3(a). The Court does not
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1 recommend any terms or conditions on this dismissal, however, petitioner is warned that
2 repeated filings of this nature may result in an award of costs or other sanctions. See Fed.
3 R. Civ. P. 41 (2)

4 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
5 fourteen (14) days from service of this Report to file written objections. See also Fed. R.
6 Civ. P. 6. Failure to file objections will result in a waiver of de novo review by the
7 District Court Judge. See, 28 U.S.C. 636 (b)(1)(C). Accommodating the time limit
8 imposed by Rule 72(b), the clerk is directed to set the matter for consideration on
9 November 18, 2011, as noted in the caption.
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11 Dated this 11th day of October, 2011.

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13 J. Richard Creatura
14 United States Magistrate Judge
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